

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JAMES SANFORD,

CASE NO. CIV S-04-1337 DFL CMK

Plaintiff,

vs.

ORDER

DEL TACO, INC., et al.

Defendant.

The plaintiff, James Sanford, filed his motion to compel discovery on May 10, 2005. The parties' counsel are also engaged in other similar types of litigation in federal courts throughout the state of California. Cooperation between counsel appears to be minimal, if nonexistent, and compliance with Local Rule 37-251 is token "at best".

In the present case, plaintiff properly served interrogatories and requests for admissions on January 13, 2005. Defendants responded to said discovery on February 15, 2005. The defendants' responses to the initial discovery were woefully inadequate. Although many of plaintiff's discovery requests are boilerplate and overbroad, the defendants' boilerplate objections add little to the spirit of cooperation. There is no give or take. Each counsel's concept of satisfying the "meet and confer" requirements of Rule 37-251 involves nothing more than the sending and faxing of self-serving letters, and engaging in phone and email tag.

Plaintiff's frustration is understandable. When confronted with the inevitable motion to

1 compel, defendants chose to file supplemental responses at the eleventh hour.
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3 The plaintiff's May 10th motion does not take into account defendants' supplemental
4 responses which were submitted a day earlier. In addition, the parties indicated on the record during
5 the hearing that a few of the discovery issues had or were in the process of being resolved. The court
6 is unaware of the progress, if any, following these representations.
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8 Enjoying this same type of judicial frustration in a similar case between the same parties and
9 counsel, Judge Nowinski rightfully vacated the discovery hearing, noting the parties' failure to
10 comply with Rule 37-251.¹
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12 Following the hearing on June 22, 2005, the court was left with most of the remaining
13 discovery disputes, but is now required to analyze the supplemental responses (which the plaintiff
14 has not done) and to attempt to assimilate the stipulations made in open court as to the few disputes
15 that were or would be resolved by agreement of the parties.
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17 Although Judge Nowinski's approach to these discovery "squabbles" is certainly the most
18 expeditious, this court initially believed that it was capable of sifting through the moving and
19 opposing papers and making proper headway. This goal has proved to be too ambitious.
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21 The defendants have now filed an unrelated motion to compel which is scheduled before this
22 court on August 16, 2005. Although the parties' compliance with the "meet and confer"
23 requirements under Rule 37-251 as to the most recent motion appears dubious, the court believes that
24 the hearing date will offer each side an opportunity to file a supplemental joint statement as to the
25 present motion which would correctly set forth the remaining discovery disputes following the
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27 ¹ See, Sanford v. Del Taco, EDDA, Civ. S-04-2154 GEB PAN
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1 plaintiff's receipt of defendant's supplemental responses and the status of the discovery concessions
2 made in court on June 22nd.

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4 For the foregoing reason, and good cause appearing,

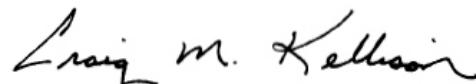
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6 IT IS HEREBY ORDERED, THAT, plaintiff's motion to compel is continued to August 16,
7 2005, at 10:00; and the parties are ordered to file a supplemental Joint Statement, on or before
8 August 10, 2006.

9 DATED: July 15, 2005.

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12 **CRAIG M. KELLISON**
13 UNITED STATES MAGISTRATE JUDGE

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